

IN THE UNITED STATES DISTRICT COURT FOR THE  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05cr227

UNITED STATES OF AMERICA )  
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                                  )  
vs.                            ) ORDER  
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AVERY SHANDEL JAMES )  
                                  )  
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**THIS MATTER** is before the Court upon the letter motion of the defendant pro se for judgment of acquittal and for substitution of counsel. (Doc. No. 33).

A motion for judgment of acquittal must be filed within seven days of the return of a jury's verdict. Fed. R. Crim. P. 29(c)(1). The defendant's motion was filed two months after the verdict was returned. Even if the Court were to consider the merits, would still deny the motion. During the trial of this matter the Court denied the defendant's motion for judgment of acquittal because there was sufficient evidence to enable a rational juror to find the defendant guilty on each of the charges. United States v. Burgos, 94 F.3d 849, 862 (4th Cir.1996). The defendant's letter presents no additional information to disturb the jury's verdict.

The defendant also asks the Court to appoint new counsel because of complaints about counsel's performance. The defendant has failed to allege sufficient grounds to warrant replacement of counsel before sentencing. United States v. Mullen, 32 F.3d 891 (4th Cir. 1994). The Court observed counsel's performance during the trial of this case and finds that counsel can adequately represent the defendant during the remaining stages of this matter.

**IT IS, THEREFORE, ORDERED**, that the defendant's pro se motions for judgment of acquittal and for substitution of counsel are DENIED.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: February 28, 2006

Robert J. Conrad, Jr.  
Robert J. Conrad, Jr.  
United States District Judge

